Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of Policy and Rules Concerning the Interstate, Interexchange Marketplace Implementation of Section 254(g) of the Communications Act of 1934, as amended	)	CC Docket No. 96-61

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SPRINT COMMENTS

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April 19, 1996

No. of Copies rec'd 0+4

SUMMARY

The Commission is clearly correct in concluding that, in most cases, it may rely upon the single, common national product and geographic market set forth in the *Competitive Carrier* rulemaking. However, the Commission is also clearly correct that there will be cases where the Commission will have to consider narrower product and geographic markets (e.g. RBOC in-region entry into interLATA services). When those situations arise, it is appropriate to use the *1992 Merger Guidelines*.

The Commission should also maintain its current separation requirements for IXCs that are affiliated with LECs. Sprint has lived under these requirements for many years and they have not proved unduly burdensome. These modest separation requirements will play an increasingly important role in enabling the Commission to detect and prevent discrimination and cross-subsidization. Without them, it is difficult to see how the Commission can assure that all interexchange carriers receive access in a neutral manner.

The Commission should forbear from adopting rules requiring geographic averaging. Such rules are likely to

inhibit competition, raise entry barriers, and be difficult to enforce. Should the Commission choose not to forbear, Sprint urges the Commission to continue its current policies favoring geographic averaging while still allowing competitive forces to work.

Sprint also urges the Commission to forbear from adopting specific rules requiring rate integration. Such rules, while possible in a monopoly environment, will inhibit competition and be difficult to enforce in today's current competitive environment. In particular the Commission should not require that an interexchange carrier's promotional, special, or one-off services that are intended to advance its competitive position be made available anywhere that carrier originates service.

Should the Commission be unwilling to forbear from adopting specific rules requiring rate integration, Sprint urges that the Commission confirm that carriers will meet the letter and spirit of the rules by integrating all points which are entitled to rate integration into existing rate structures. In the event the Commission elects this option, Sprint also requests that it be afforded sufficient time (one year) to make the substantial changes to billing systems and software that will be required.

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SPRINT COMMENTS

Pursuant to the Commission's Notice of Proposed Rulemaking (NPRM) in the above-captioned docket released March 25, 1996, Sprint Corporation hereby submits the following comments regarding Section IV (the definition of relevant product and geographic markets), Section V (separations requirements for local exchange carriers), and Section VI (rate averaging and integration requirements of the 1996 Act).

I. WHERE WARRANTED BY SPECIFIC CIRCUMSTANCES, PRODUCT AND GEOGRAPHIC MARKETS NARROWER THAN ALL DOMESTIC, INTEREXCHANGE TELECOMMUNICATIONS SERVICES SHOULD BE CONSIDERED BY THE COMMISSION IN DETERMINING MARKET POWER

The Commission questions whether it should continue to rely upon the product and geographic market definitions adopted in

Competitive Carrier. In *Competitive Carrier*, the Commission found that

> for purposes of assessing...market power..., (1) interstate, domestic, interexchange telecommunications services comprise the relevant product market, and (2) the United States...comprise[s] the relevant geographic market for this product, with no relevant submarkets (see ¶40).

The Commission tentatively concludes that it would be sound, at least in some instances, to consider product markets narrower than all domestic interexchange telecommunications services, and that it would be sound, at least in some instances, to consider these markets as being confined to a more limited, perhaps far more limited area, than the entire United States (*id.*). The Commission further concludes that it "...should follow the approach taken in the U.S. Department of Justice/Federal Trade Commission *1992 Merger Guidelines* (the "*Guidelines*") for defining relevant markets" (footnote omitted).

As regards the products contained in a relevant market, the Commission notes that the *Guidelines* define such a market as "'the product or group of products such that a hypothetical profit maximizing firm [monopoly]...would impose at least a 'small but significant and nontransitory' increase in price'" (¶45). The Commission then concludes that this test -- because it is based "solely on demand substitution factors" -- plainly suggests that different communications services would fall into different markets (¶46). The example used by the Commission is that it is "...unlikely...that a substantial number of residential customers would switch from residential service to 800 service in response to a small but significant nontransitory increase in the price of residential service" (*id*).

Nevertheless, the Commission finds that "it would be administratively burdensome to delineate all relevant product markets for interstate interexchange services" (¶47). The Commission concludes therefore that it "...should address the question whether a specific interstate, interexchange service (or group of services) constitutes a separate product market only if there is credible evidence suggesting that there is or could be a lack of competitive performance with respect to that service (or group of services)" (*id.*).

The Commission notes that the focus of the *Guidelines* on consumer demand (the ability of a hypothetical monopolist to "profitably impose at least a 'small but significant and nontransitory' increase in price" (¶48)) plainly suggests that there are relevant geographic markets for communications products narrower than the entire United States, since "...most telephone customers do not view interexchange calls originating in different locations to be close substitutes for each other" (¶49). In fact, the Commission tentatively concludes "that the relevant geographic market for interstate, interexchange services should be defined as all calls from one particular location to another particular location" (¶49).

However, here again, as was the case in defining a product market, the Commission finds that it would be "impracticable" to rely upon such a definition and that it need not do so because

> in the majority of cases, economic factors and the realities of the marketplace will cause these [geographic] markets to behave in a sufficiently similar manner to allow us to aggregate them into broader, more manageable groups of markets for purposes of market power analysis (¶50).

For this reason, the Commission reaches a conclusion similar to that for products markets, and concludes that "...in most cases, we should continue to treat interstate, interexchange services as a single national market...."

The Commission is clearly correct in concluding that, in most cases, it may rely upon the single common, national product and geographic market set forth in *Competitive Carrier*. The Commission is also clearly correct that in other cases, "special circumstances" will require that the Commission consider narrower product and geographic markets in determining the existence of market power.

Given the wide-spread acceptance and use of the *1992 Merger Guidelines* both by the courts and government agencies, the Commission's acceptance of these guidelines is readily understandable, and there can be no real question that under these guidelines (which, as noted, focus on customer demand), market power may exist in product or geographic markets which are far narrower than the single market considered in *Competitive Carrier*. It would seem self-evident that both residential and business telephone users would not regard all domestic telephone services as ready substitutes for each other. Nor would these users regard different locations, even relatively close locations, as readily substitutable. To a marked degree, the entire public phone market (hotel phones, payphones, etc.) relies for its profitability upon the fact that customers are willing to pay a premium for the use of these phones because of the convenience they afford.

However, it would seem not only "administratively burdensome," but logically infeasible to attempt to define all possible narrower markets that may appropriately be considered by the Commission in defining market power. Neither the Commission, nor those responding to its request for comments, are gifted with prescience. While it is possible to foresee the need for narrower market definitions in some cases (the Commission's example of an RBOC's market power in-region as opposed to out-of-region is perhaps glaringly apparent), no one can foresee the totality of such situations. It is also not apparent that there is, at least for the present, a particular market or combination of markets which could be employed in most cases and whose general use would represent an improvement over the broader definition in *Competitive Carrier*. Under the circumstances, the Commission correctly found that the best alternative was for it to rely in general, and, for the time being, on *Competitive Carrier* and examine the issue of market definition in light of the *Guidelines*, as new and different situations arise and as competition itself evolved in the telecommunications market.[1]

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[1] This is not to suggest that Sprint agrees with all the Commission's reasoning underlying its conclusion that it may rely upon a national geographic market for interexchange service. The idea that the Commission can assume such a national market because of, *inter alia*, competition due to "excess capacity of interstate transport" (¶52), is not only empirically incorrect (as Sprint has made clear in the *AT&T Reclassification Docket* and other proceedings)(see, e.g., Sprint's Comments in CC Docket No. 90-132, Competition in the Interstate Interexchange Market, July 3, 1990, pp. 56-77; Sprint's Comments on AT&T's Petition for Waiver of Price Cap Regulations for New Commercial Long Distance Service Classification, October 13, 1992, pp. 4-5) but perhaps illegal as well. The purpose in defining a market is to test for the presence or absence of market power in that market. To determine the issue of market power in advance so that it can then be used in defining a relevant market is to engage in circular reasoning. By focusing on customer

FOOTNOTE CONTINUES ON NEXT PAGE

II. THERE IS NO VALID REASON FOR ABANDONING THE SEPARATION REQUIREMENTS OF *COMPETITIVE CARRIER*

The Commission notes that in *Competitive Carrier,* it had found that an IXC affiliated with a LEC could provide interexchange service as a non-dominant carrier if it met three conditions: (1) it maintained separate books of account; (2) it did not jointly own transmission or switching facilities with its LEC affiliate; and, (3) it acquired services from its affiliated entity on a tariffed basis (¶57). With the termination of the MFJ, the Commission addressed the status of an RBOC out-of-region IXC affiliate in a separate rulemaking (CC Docket 96-23, the "Out-of-Region NPRM") and tentatively concluded that it should apply -- on an interim basis -- the same rules to an out-of-region RBOC affiliate that it applies under *Competitive Carrier* to a LEC affiliate (¶60).

The Commission now seeks comment on whether it should change the *Competitive Carrier* separation requirements imposed for many years on LEC IXC affiliates as a condition of non-dominance, and

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demand, and not considering the presence or absence of supply side considerations, such as excess capacity, the *Guidelines* avoid this problem.

whether, if such change is adopted, it should also be applied to the RBOC IXC affiliates (¶62).

There is no reason for the Commission to abandon the existing separations requirements established in *Competitive Carrier* either for independent LECs or Bell Operating Companies. Sprint can assure the Commission, first hand, that these requirements have hardly proven to be "unduly burdensome." On the contrary, if a LEC or BOC is to deal with its own affiliated IXC entity in a non-discriminatory fashion (that is, if it treats, as it must, such IXC affiliate in exactly the same way as it treats other IXC providers), there is no reason why that LEC or BOC would be hampered, or even seriously inconvenienced, if it continues to be required to:

(1) keep its own books of account;

(2) provide service over its own separate switches and facilities; and,

(3) have its IXC affiliate take access pursuant to tariffed rates.

The separation requirements will undoubtedly play an increasingly critical role in enabling the Commission to detect and prevent cross-subsidization and discrimination. These requirements are certainly the best, and perhaps the only, reliable tool that the Commission has at hand for this purpose.

Absent such separation, it is difficult to see how the Commission can ensure that all interexchange competitors receive access in a neutral manner. And, without such assurance it cannot protect interexchange competition itself.

III. Rate Averaging and Rate Integration Requirements of 1996 Act.

A. Geographic Rate Averaging

New Section 254(g) of the Act is designed to ensure geographic averaging[2] for a particular kind of product, namely, interexchange telecommunications services. Section 254(g) also clearly seeks to deter or prevent a particular kind of pricing by carriers: that which is based on the rural or high cost status of a discrete subset of an interexchange carrier's subscribers. The statute assumes that in the absence of pricing constraints, subscribers in rural or high cost areas would pay higher rates than their urban or lower cost counterparts.[3]

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[2] Geographic rate averaging results when a carrier averages the costs of serving all subscribers within a geographic market and formulates its rates based on such averaged costs. With such averaging, the carrier's rates do not distinguish between high and low cost routes.

[3] Sprint notes that rural and high cost status do not necessarily go hand in hand. Some urban carriers have high rates for interstate access service when compared with other carriers. For example, Sprint currently pays the Puerto Rico Telephone Company a little less than $0.07 per minute for interstate switched access. This is considerably higher than the typical rate that Sprint pays in almost every other case.

In addition, Section 254(g) imposes a second constraint on the pricing for interexchange service by carriers serving both in-state and interstate markets. Specifically, such carriers must provide interexchange telecommunication services to their subscribers in each State at rates no higher than the rates charged to subscribers in any other State.

Geographic rate averaging for interexchange services is easy to accomplish in a monopoly provider environment: subscribers who cost the monopoly carrier less to serve have no ability (aside from not using service at all) to object to or avoid being averaged in with high cost subscribers and paying averaged rates. Notwithstanding its long-standing support for and policies generally favoring geographic averaging, however, the Commission has also been flexible in applying those policies. When the market for interexchange service is characterized by competition and open entry as it is today, for example, the Commission long ago recognized that its policies favoring nationwide rate averaging could not be absolute.

As the Commission pointed out over twenty years ago in *AT&T (Hi-Lo)*, 55 FCC 2d 224 (1975) at 230, *recon.* 58 FCC 2d 362, aff'd *mem. sub nom. Commodity News Services, Inc.* v. *FCC*, 561 F.2d 1021 (D.C. Cir. 1977):

> We reaffirm ... the view that we shall not oppose a departure from nationwide price averaging on the part of existing carriers in response to direct competition where such a departure is justified.

There is a sound basis in economics and logic for the Commission's position: under the Commission's policies governing competitive carriers, a new entrant seeking to provide interstate interexchange telecommunications services receives authority under Section 214 of the Communications Act to serve the entire United States.[4] Such an entrant, however, is not obligated to serve the entire United States. Since interstate access charges are deaveraged and not all interexchange routes exhibit identical cost characteristics, a carrier can choose to serve only geographic areas where access charges or other major costs are relatively low, and reach other domestic points by reselling the geographically averaged rates of other carriers or not serve them at all. This scenario is not mere speculation. The financial press has reported that WorldCom, Inc., the fourth largest facilities-based carrier in the U.S., provides interexchange service to resellers on a regional basis.[5]

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[4] Competitive Common Carriers, 95 FCC 2d 554 (1983) at 576 (subsequent history omitted).

FOOTNOTE CONTINUES ON NEXT PAGE

Such unbundling is to be expected in a competitive market and is likely to become more common as competition in the interexchange market increases as expected. In fact, a highly likely scenario is for a low-cost Regional Bell Operating Company, once it obtains necessary permission, to begin offering interexchange service within its region and pricing its service to take advantage of its low costs, while offering out-of-region service by reselling the geographically averaged rates of other carriers.

Carried to its logical extent, this kind of arbitrage will undermine the ability of carriers currently providing geographically averaged service to maintain that rate structure, for the users whose costs are averaged will consist of a higher

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[5] *See* "Private Label Long Distance," Financial World, April 22, 1996 at 52-53, quoting WorldCom chief financial officer Scott Sullivan:

> According to Sullivan, what sets WorldCom apart is that the company, unlike the big three, enables its resellers, including the RBOCs and GTE, to be more efficient in offering long distance by breaking up the long-distance phone call into its three parts: originating access, transport, and terminating access. WorldCom's partners can price their services on a regional basis and be more competitive.
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> "[Resellers] will have exact control over their cost structure," says Sullivan. "We need to be specific about the pricing of our service. We cannot afford to offer an average-price service to an RBOC. Nor can an RBOC afford to have an average-cost vendor." (Emphasis supplied)

and higher proportion of smaller and smaller pool of high cost users. If the Commission required a carrier providing geographically averaged service to maintain such a rate structure in the face of competition, the Commission would essentially be denying the carrier an opportunity to compete fairly and to earn a return on its investment.[6]

Fortunately, the Commission recognizes this problem at ¶69 of the NPRM, for it asks whether competitive conditions or other circumstances "could justify Commission forbearance from enforcing the proposed geographic rate averaging requirement with respect to particular interexchange carriers or services." Footnote 154 is even more specific, pointing out that

> "if new entry substantially increases competition in areas with high volumes and low costs, nationwide interexchange carriers may be placed at a competitive disadvantage if they are not permitted to offer regional discounts in such areas."

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[6] Sprint believes that such a result would present serious legal issues, for it would introduce a systematic bias that would operate over the long run to depress the earnings of carriers with geographically averaged rates. A similar bias was found unlawful in AT&T v. FCC, 836 F.2d 1386 (D.C. Cir. 1988), where the Commission ordered an automatic refund of overearnings in years when a rate base regulated carrier exceeded its permitted rate of return but did not provide for a means of making up the shortfall in years when the carrier's earnings fell short of that rate of return.

As Sprint has demonstrated above, such competitive disadvantage is a very real prospect, and national interexchange carriers must be free to respond accordingly. Sprint therefore supports the Commission's suggestion that the Commission forbear from enforcing the proposed geographic rate averaging requirement with respect to carriers who are nondominant in the provision of interstate interexchange telecommunication services.

Should the Commission not wish to forbear, however, Sprint believes that the Commission should continue its current policies favoring geographic averaging while permitting, in certain situations, some degree of flexibility. This policy has resulted in a substantial degree of geographic averaging as well as the ability by national interexchange carriers to respond to competition as necessary. Sprint notes that the legislative history of Section 254(g) explicitly contemplated that the Commission would continue to authorize limited exceptions to the general rate averaging policy using its forbearance authority. Conference Committee, Joint Explanatory Statement on the Telecommunications Act of 1996, 104th Cong., 2nd Sess. at 132.

Since the legislative history acknowledges the practice of offering service under non-averaged rates for specific services such as AT&T's Tariff 12 offerings, it is fully consistent with the legislation for carriers to continue to make such offerings. Sprint also believes, consistent with current practice, that promotional offerings, one-off or single customer offerings, and specials, sales, and any other offering deemed necessary to allow a nondominant interexchange carrier to price in a competitive market should likewise be found to be consistent with the legislation.

This should be so even if these special offerings are not universally available throughout a carrier's service area. By approving the continuance of offerings like AT&T's Tariff 12 services, the legislative history demonstrates that universal availability is not a necessary element of geographic averaging, for Tariff 12 offerings are only available to customers who fit the "template" of a particular Tariff 12 option.

Sprint believes that rigid application of any uniform rate policy in the name of geographic averaging is not only inconsistent with the legislative intent of Congress, but is also likely to inhibit new entry, retard competition and resale, and be difficult or impossible to enforce. In today's market, interexchange carriers often compete by offering special calling plans to prospective customers. The plans are usually, but not always, available to every potential customer of an interexchange carrier.

If the Commission or a reviewing court were to interpret the new legislation as requiring every optional or promotional offering to be made available to every location from which a nationwide interexchange carrier originates service, for example, interexchange carriers might have to withdraw these promotional offerings entirely or modify them in such a way as to inhibit competition.

Assume hypothetically that one of the Regional Bell Operating Companies obtained regulatory approval to offer inter-LATA service from in-region and that an interexchange carrier sought to blunt that RBOC's entry by making a promotional offering for discounted service only to interexchange customers within that RBOC's region. Assume further that the hypothetical RBOC did not offer service originating in Guam to the Mainland U.S. but only offered interexchange service originating within its own region.

Under the broad language of the Commission's proposed rule, a nationwide interexchange carrier may be forced to offer the identical promotion not only throughout the entire United States, Puerto Rico, the U.S. Virgin Islands but from Guam as well even though a rational competitive response in a purely competitive market would be limited to the territory of one competitor. This makes no sense in a competitive market.

Sprint submits that with increasing competition in all aspects of telecommunications, the tension between geographic averaging and competition alluded to by the Commission over a decade ago will only increase. The Commission will with increasing frequency be forced to decide difficult questions that will place the regulator, rather than the market, in the unenviable position of deciding winners and losers.

Such heavy-handed regulatory intervention creating additional entry barriers for new entrants or imposing additional burdens on existing carriers would not seem to be in keeping with the Commission's oft-stated desire to increase competition and decrease regulation. Forbearance, or at least some degree of flexibility necessary to allow carriers to compete is clearly the preferred alternative.[7]

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[7] Sprint also concurs with the Commission's tentative view that the Commission's authority to establish rules requiring geographic rate averaging should not foreclose consistent state action. It has been Sprint's experience that the Commission's pricing policies for interstate services have significant influence on the pricing policies adopted by the states for intrastate services. Thus, rates for intrastate interexchange services are, by and large, already geographically averaged. For this reason, Sprint believes it would be premature for the Commission to seek to pre-empt state practices with respect to geographic averaging at this time.

FOOTNOTE CONTINUES ON NEXT PAGE

B. Rate Integration

The new law's legislative history also makes clear Congress's intent that the Commission promulgate rules and policies requiring rate integration, including the policies contained in the Commission's seminal 1976 decision on that subject.[8] In order to understand Congress's intent, it is important to understand that the Commission's rate integration policies were designed to solve a particular problem. As the Commission explained in 1972, the treatment of the so-called "offshore" points - i.e., Alaska, Hawaii and Puerto Rico - as foreign rather than domestic points for ratemaking purposes meant that foreign rate and service patterns were applicable. This, in turn, meant that

> The relatively high level of charges resulting from these physical factors and cost considerations has inhibited the free flow of communications between contiguous states and these points to the disadvantage of all of our citizens. It is our considered view that the public interest requires that the distinctions, particularly with respect to level of charges and rate patterns, should be eliminated. As set forth below, the advent of domestic satellite communications

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[8] Joint Explanatory Statement at 132, citing Integration of Rates and Services for the Provision of Communications by Authorized Common Carriers between the United States Mainland and the Offshore Points of Hawaii, Alaska, and Puerto Rico/Virgin Islands, 61 FCC 2d 380 (1976) ("1976 Rate Integration Order").

> with their distance insensitive features provides a sound economic basis for such conclusion.

Domestic Communications-Satellite Facilities, 35 FCC 2d 844 (1972) (subsequent history omitted.)

In its 1976 Rate Integration Order, the Commission specifically described what it expected from the monopoly carriers providing MTS service between the U.S. Mainland and the offshore points when they submitted their proposals for rate integration. The carriers were expected to give maximum effect to the elimination of distance as a major cost factor and include the integration of Alaska, Hawaii and Puerto Rico/Virgin Islands into the uniform mileage rate pattern applicable to the mainland U.S. 61 FCC 2d at 383.

The Commission also recognized that economic or technical factors could warrant some deviation from this approach or require a phased plan, provided there was justification for such alterations. *Id.*[9] And while the Commission also stated that its

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[9] See also General Communication, Inc., 2 FCC Rcd 6479 (1987) at n. 24:

> In explaining our *Domsat II* decision to require the integration of Alaska into the nationwide rate pattern, we observed that we were not indicating a preference for averaged or deaveraged rates, nor were we precluding carriers from deaveraging rates to all points. Rather, we concluded that selective deaveraging by using different ratemaking methods to determine the rates which different users pay for comparable services is inconsistent with the national policy expressed in Section

FOOTNOTE CONTINUES ON NEXT PAGE

rate integration policies were applicable to private line and other specialized services, it did not there explain what rate integration meant in the context of these other services.

Since the Commission adopted its 1976 Rate Integration Order, profound changes have occurred in the interstate interexchange business. First, the economic underpinnings for the Commission's decision have been eviscerated. The Commission anticipated that the distance-insensitive nature of satellite technology would provide a "sound basis" for integrating the offshore points into domestic interstate interexchange rate structures.

Over the last twenty years, however, carriers and customers have demonstrated their overwhelming preference for terrestrial-based technology such as fiber optic submarine cables for a number of reasons. For example, cables do not experience the problems of transmission delay inherent in the use of satellite technology. Customers find such delay disconcerting because it interrupts their normal speech patterns and synchronous data transmissions. Because it is a radio-based technology, satellite

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202(a), and that carriers must cost justify any deaveraged rates. (Citation omitted) transmissions are, unlike submarine cables, susceptible to interference.

These customer preferences, when combined with the substantial declines in per-circuit costs made possible by fiber optic cables and the availability of ever-faster laser amplifiers, mean that Sprint carries the great majority of its traffic to the offshore points by terrestrial facilities rather than by satellite.[10] The cost characteristics of such terrestrial facilities are, of course, distance (and volume) sensitive. With submarine cables, for example, additional distance requires additional cable, additional repeaters, and additional maintenance and installation costs. These costs are, unlike satellite technology, clearly distance sensitive.

Second, unlike the monopolistic world in which the Commission developed its rate integration policies, the current interstate interexchange market is characterized by substantial competition. Indeed, the Commission did not even begin its proceedings to examine the desirability of opening the interstate

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[10] For example, Sprint does not have any satellite capacity for the provision of service to Puerto Rico; all of its capacity is via submarine cable. Similarly, for service to Hawaii, Sprint uses satellite capacity only for restoration purposes. It relies on submarine cables for primary transmission purposes.

interexchange market to full competition until almost two years after it issued its 1976 Rate Integration Order.[11]

As interexchange competition continued to develop, the Commission had occasion to apply its rate integration policies to Sprint's predecessor in interest, a nondominant carrier, when the latter was acquired by GTE Corporation in 1983. In approving the acquisition, the Commission, in response to concerns over rate integration expressed by the State of Hawaii, imposed the following conditions:

> 1) GTE was required to cause Sprint to include the State of Hawaii in any interexchange telecommunications service offering that was available on the U.S. Mainland to metropolitan areas equivalent in size to the Honolulu metropolitan area, such offering to be included in the same rate structure which applies on the U.S. Mainland; and
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> 2) GTE was required to cause Sprint to provide, as soon as operationally feasible and under the same rate structure, all Sprint services provided on the U.S. Mainland; GTE was also required to cause Sprint to provide to Hawaii as soon as operationally feasible point-to-point private line services under the same rate structure applicable on the U.S. Mainland; and Sprint was also required to continue to provide all such services under the same rate structure that applied on the U.S. mainland as long as such service was available to metropolitan areas on the U.S. Mainland equivalent in size to Honolulu.

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[11] *See* MTS and WATS Market Structure, Notice of Inquiry and Proposed Rulemaking in CC Docket No. 78-72, 67 FCC 2d 757 (1978) (subsequent history omitted). Indeed, at the time the Commission issued its 1976 Rate Integration Order, Sprint's predecessor in interest was not legally permitted to offer any service besides specialized common carrier services.